

FBT-CV15-6048103-S

DONNA L. SOTO, ADMINISTRATRIX OF THE ESTATE OF VICTORIA L. SOTO et al.	:	SUPERIOR COURT
	:	
Plaintiffs,	:	JUDICIAL DISTRICT OF FAIRFIELD
	:	
v.	:	AT BRIDGEPORT
	:	
BUSHMASTER FIREARMS INTERNATIONAL, LLC, et al.	:	APRIL 19, 2016
	:	
Defendants.	:	

**DEFENDANTS CAMFOUR, INC.’S AND CAMFOUR HOLDING, INC.’S
MOTION TO STAY DISCOVERY**

Defendants Camfour, Inc. and Camfour Holding, Inc. s/h/a Camfour Holding, LLP a/k/a Camfour Holding, Inc. (collectively referred to as “Camfour”) respectfully move, pursuant to Practice Book Section 13-5, for a stay of discovery until this Court determines whether Plaintiffs’ claims are barred by the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §§ 7901 et seq. (“PLCAA”). In support of this Motion, Camfour represents as follows:

1. Camfour filed a Motion to Dismiss Plaintiffs’ claims pursuant to the PLCAA on December 11, 2015.
2. On April 14, 2016, the Court issued a decision denying defendants’ Motions to Dismiss on the basis that immunity pursuant to the PLCAA should be raised pursuant to a motion to strike pursuant to Practice Book Section 10-39. Apr. 14, 2016 Order at 14.

3. Camfour intends to file a motion to strike Plaintiffs' claims pursuant to the PLCAA by April 22, 2016.

4. The PLCAA provides firearms sellers, such as Camfour, with statutory immunity from suit, by prohibiting the filing of a "civil action . . . brought by any person against a . . . seller of a [firearm] . . . for damages, punitive damages, injunctive or declaratory relief, or penalties or other relief resulting from the criminal or unlawful misuse of a [firearm] by . . . a third party" in any state or federal court, unless one or more narrow exceptions apply. 15 U.S.C. §§ 7902(a) & 7903(5)(A).

5. "[S]tatutory immunity involves immunity from suit and is intended to permit courts expeditiously to weed out suits which fail the test without requiring a defendant who rightfully claims qualified immunity to engage in expensive and time consuming preparation to defend the suit on its merits." *Kelly v. Albertsen*, 970 A.2d 787, 790 (Conn. App. Ct. 2009). *See also Manifold v. Ragaglia*, 891 A.2d 106, 122 (Conn. App. Ct. 2006) (holding that statutory immunity protects a defendant from having to even defend against a lawsuit, not just from liability).

6. Practice Book Section 13-5 provides that:

Upon motion by a party from whom discovery is sought, and for good cause shown, the judicial authority may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters

7. This Court is authorized to stay discovery pursuant to Practice Book Section 13-5. *Wilcox v. Webster Ins.*, No. CV075010093S, 2008 WL 253054, at *1-*2 (Conn. Super. Ct. Jan. 11, 2008); *Ritchie v. Nyfix, Inc.*, No. FSTCV064009324S, 2007 WL 806240, at *1 (Conn. Super. Ct. Feb. 22, 2007).

8. The arguments that will be raised in support of Camfour's motion to strike Plaintiffs' claims against them pursuant to the PLCAA will be based on the allegations in the First Amended Complaint and will be accepted as true for purposes of that motion. There is accordingly no need for Plaintiffs to conduct any discovery in order to address the issue of whether the PLCAA provides Camfour with immunity from their claims.

9. Discovery should not proceed until the issue of whether Camfour is entitled to statutory immunity from Plaintiffs' claims pursuant to the PLCAA has been resolved by this Court. In the more than ten years since the PLCAA was first enacted, Camfour is aware of no court that has allowed a plaintiff to proceed with general discovery before determining whether defendant was entitled to immunity pursuant to the PLCAA based on the allegations raised in the operative complaint.

WHEREFORE, Camfour respectfully moves to stay discovery until this Court has determined whether it has statutory immunity from Plaintiffs' claims pursuant to the PLCAA.

Dated: White Plains, New York
April 19, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Stay Discovery was served on all counsel of record on April 19, 2016 by virtue of the State of Connecticut Judicial Branch's electronic filing system as well as by first class mail, U.S. postage prepaid to the following addresses:

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